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GOOGLE LLC

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO**

ANIBAL RODRIGUEZ, *et al.* individually and  
on behalf of all other similarly situated,

Plaintiffs,

vs

GOOGLE LLC, *et al.*

Defendant.

Case No. 3:20-CV-04688 RS

**DECLARATION OF BRYSON  
SANTAGUIDA RELATED TO PRIVILEGE  
DISPUTE**

Judge: Hon. Alex Tse

Action Filed: July 14, 2020

Trial Date: Not Set

1 I, BRYSON SANTAGUIDA, declare:

2 1. I am a Senior Counsel at Google LLC, where I have served as in-house counsel for  
3 Google related to a variety of technology products and services, including Google Analytics for  
4 Firebase. I have served as product or senior counsel at Google since 2013.

5 2. I am an active member of the California State Bar, to which I was admitted in  
6 February 2008 after graduating from the University of Chicago Law School.

7 3. I understand that a memorandum with Bates number GOOG-RDGZ-00032746  
8 to -32767 was inadvertently produced by Google in the above-captioned matter, after which  
9 Google issued notice that the document is protected by the Attorney-Client Privilege and clawed  
10 back by Google's outside counsel pursuant to the Protective Order entered by the Court in this  
11 case.

12 4. The document at issue is a product memorandum for privacy legal review created in  
13 the Google Docs platform, a word processing system that enables multiple authors and  
14 collaborators to work and comment on a document simultaneously. The memorandum's title is  
15 "Google Analytics for Firebase Privacy Design Doc" (hereafter "the Memorandum"). The purpose  
16 of the Memorandum is to facilitate conversation between me as product counsel for GA for  
17 Firebase and the product team as I prepare and render legal advice concerning liability risks  
18 related to GA for Firebase.

19 5. The Memorandum is dated June 8, 2018. It also contains comments dated from the  
20 summer of 2019 and the summer of 2020.

21 6. The Memorandum began as a document crafted by Google's privacy counsel's  
22 office as a set of questions to pose to Google employees to facilitate the request for and receipt of  
23 information from Google employees relevant to legal advice that Google's corporate counsel  
24 provides to the corporation relating to privacy laws, regulations, ongoing litigation, and potential  
25 litigation. The questions in the document are designed by counsel to be targeted at significant  
26 privacy-related legal issues on which I and other counsel at Google provide legal advice, including  
27 issues relating to user consent, data collection, data sharing, and disclosures given to users and  
28 third party customers.

1           7. In the summer of 2018, I oversaw the launch of Google Analytics for Firebase  
2 (GA for Firebase). As part of this launch, it was my responsibility to provide legal advice to  
3 Google concerning whether and how GA for Firebase complies with applicable privacy laws and  
4 regulations, as well as the potential impact of the product launch on ongoing and potential  
5 litigation. As part of executing that responsibility, it was my obligation to perform an investigation  
6 to establish certain information about the product team's plans for the planned new features and  
7 inner functionality of GA for Firebase in order to render accurate legal advice.

8           8. The preparation of the Memorandum followed the model of a live conversation  
9 rather than a single drafting and final publication model. The technology underlying Google Docs  
10 enabled this live conversation to continue over a lengthy period of time. As the product team  
11 (primarily engineers) prepared the answers to the Memorandum's questions posed by counsel, I  
12 engaged in numerous live meetings with the engineers and product managers to pose follow-up  
13 questions that I believed needed to be answered so that I could render accurate legal advice to the  
14 corporation.

15           9. The product team and I had undergone a similar exercise over the prior three years  
16 relating to "Firebase Analytics," a predecessor product to GA for Firebase. A similar  
17 memorandum was prepared by the product team in connection with "Firebase Analytics," and I  
18 provided extensive comments both in live meetings and in the document itself in an effort to refine  
19 that predecessor memorandum so that it would reflect accurate answers to the key legal questions  
20 posed. The Memorandum at issue here contains very similar answers to the predecessor product's  
21 memorandum because it was crafted in part by leveraging the earlier work that the product team  
22 and I had done on the "Firebase Analytics" memorandum.

23           10. The follow-up questions I posed to the product team in live team meetings and in  
24 comments on the predecessor memorandum resulted in changes to the content of the GA for  
25 Firebase Memorandum and the earlier memorandum related to "Firebase Analytics." Those  
26 follow-up questions were crafted by me as an exercise of my independent legal judgment as  
27 corporate counsel for Google, designed to ascertain information necessary to establish whether  
28 and how "Firebase Analytics" and GA for Firebase complied with privacy laws and regulations,

1 and whether and how those product and/or feature launches might impact ongoing or potential  
2 litigation.

3 11. As part of the launch process for GA for Firebase, the Memorandum at issue here  
4 was submitted to me as one basis for reaching final pre-launch approval. I reviewed the  
5 Memorandum as of late May 2018 and approved the launch. My approval is recorded in an  
6 internal Google system used to track the launch progress of GA for Firebase, and in particular,  
7 sign-off from legal counsel. That internal system notes that I provided my approval on May 14,  
8 2018.

9 12. Had I declined to approve the launch or advised further developmental steps, such as  
10 design modifications at that time, that would have constituted advice from me to the corporation  
11 that further legal review (and potentially changes to the product) was needed before the product  
12 could launch with approval from Google's corporate counsel. Without my approval, the product  
13 would not have launched when it did.

14 13. In the summer of 2019, the product team and legal counsel revisited the document to  
15 ensure it remained accurate one year later. Some changes were made to the document as a result of  
16 changes in the product, and some of the engineer's comments on the Memorandum expressly  
17 invite another Google product counsel, Joy Su, to comment on specific content.

18 14. In the summer of 2020, the product team and legal counsel revisited the document to  
19 ensure it remained accurate one year later. Some changes were made to the document as a result of  
20 changes in the product.

21 15. Google has never shared the document with outside parties, including the FTC.  
22 Google treats this document internally and others like it, including other "Privacy Design Docs,"  
23 as confidential, attorney work product, and attorney-client privileged. To the extent Plaintiffs'  
24 brief concerning this document implies that this document was shared with outside regulators,  
25 such an implication is false.

26 16. I understand that Plaintiffs have argued based on public sources that Privacy Design  
27 Documents like the document at issue here are technical documents created by and for Google  
28 engineers in the ordinary course of business. That is also incorrect to the extent that it implies that

1 such documents serve only business purposes unrelated to the provision of legal advice. This  
2 document, and other Privacy Design Documents, is part of an ongoing conversation with Google's  
3 in-house lawyers to facilitate the provision of legal advice to Google. Engineers and privacy  
4 working groups are also typically involved in that conversation. All of that is under the aegis of a  
5 cross-functional committee with members from various fields of expertise. The principal purpose  
6 of all this cross-functional conversation was to facilitate my ability, as counsel for Google, to  
7 render legal advice about Google's efforts to comply with complicated regulatory and legal  
8 regimes relating to privacy issues.

9 17. As Plaintiffs describe, it is the case that Privacy Design Documents like the one at  
10 issue here contain factual matter, as do many documents created for the provision of legal advice.  
11 That does not change the fundamental origin of the document—a set of questions drafted by  
12 lawyers—or the purpose of the document, which is to facilitate legal advice from Google's in-  
13 house counsel.

14 18. A privacy working group provides technical expertise. Of course, in-house and  
15 external technical experts advise and consult Google and its in-house counsel routinely, and that  
16 does not change the character of privileged conversations and communications.

17 19. The Privacy Legal Group is an expert legal team within Google. The product  
18 counsel team, of which I am a member, has broader legal responsibilities but provides similar  
19 legal advice.

20 I declare under penalty of perjury under the laws of the United States of America that the  
21 foregoing is true and correct.

22 Executed December 1, 2021, at San Francisco, California.

23  
24 /s/ Bryson Santaguida  
25 BRYSON SANTAGUIDA  
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